

Appl. No. : 10/722,367
 Filed : November 25, 2003

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REMARKS

In response to the Office Action mailed December 7, 2007, Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments.

Election/Restrictions

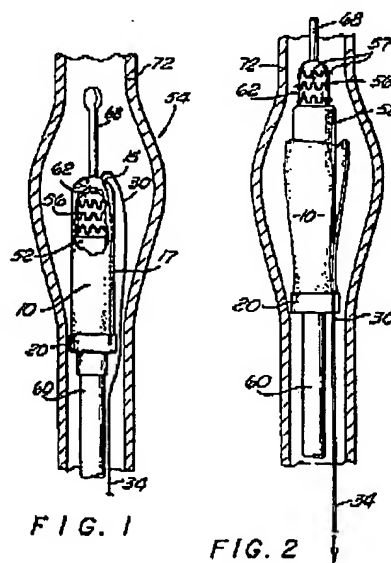
Applicant acknowledges the election of Claims 1-9, 10-15 and 24-27. The unelected claims (i.e., Claims 16-23 and 28-30) have been canceled without prejudice. Applicant reserves the right to prosecute these claims in a divisional or continuing application.

Claim Rejections – Anticipation

Claims 24 and 25 stand rejected as anticipated by Anderson (USPN 5,647,857). Applicant respectfully traverses this rejection.

Independent Claim 24 recites, in part, “wherein the first peelable cover is coupled to a first release element and wherein the first graft restraint is positioned within the catheter body in a graft loaded position.”

As the Examiner knows, an anticipation rejection is proper only if a single reference shows every element of the claim, arranged as in the claim. MPEP §2131. However, Anderson discloses a sheath 10, which covers a “stent-and-graft”. Col. 4, lines 64-67. The “sheath [10] may extend to cover substantially the entire length of the catheter [60].” *Id.*



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This sheath 10, which is positioned on the outside of the catheter 60, includes a notch 15 and is coupled to a strand 30. See Figures 1 and 2 reproduced above. Accordingly, Anderson does not disclose a first graft restraint that is positioned within the catheter body in a graft loaded position and thus cannot anticipate Claim 24. For at least this reason, Applicant submits that the rejection of Claims 24 and 25 should be withdrawn.

Claim Rejections – Obviousness

Claims 1-9

Claims 1-8 stand rejected as unpatentable over Dorros (USPN 5,720,735) in view of Anderson and Del Toro (USPN 5,733,267). Claim 9 stands rejected as unpatentable over Dorros in view of Anderson and Del Toro and in further view of Edoga (5,591,228). Applicant respectfully traverses the rejection of these claims.

In rejecting independent Claim 1, the Office Action acknowledges that the combination of Dorros and Anderson does not disclose an outer sheath that surrounds the graft restraints. Page 4. Nevertheless, the Office Action states that it would have been obvious to add the outer sheath of Del Toro to the combination “to allow the graft restraints to remove within the outer sheath to prevent the restraints from doing damage to the inner lining of the vessel being repaired.”

Applicant respectfully disagrees. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings, as suggested by the Office Action. In this case, the cited art does not provide such a motivation. As noted above, the primary reference (Dorros) and the secondary reference (Anderson) both do not disclose an outer sheath around the elements identified by the Examiner as graft restraints. Del Toro discloses a catheter comprising three tubes and no peelable or tearable graft restraints. The inner and outer tubes are identified by Del Toro as being in the prior art. Col. 2, lines 53-65. The problem Del Toro sought to solve was flattening out of the catheter when it is bent and the outer shaft has been pulled back. See Fig. 3. To solve this problem, Del Toro adds an outer stiffening shaft 32. Col. 3, lines 10-15. Applicant submits that there is, therefore, no motivation to add an outer stiffening shaft to the primary or secondary references. Specifically, neither reference has the inner and outer shaft combination that caused the flattening out problem identified by Del Toro.

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With respect to the motivation identified by the Office Action of "preventing the restraints from doing damage to the inner lining of the vessel." Applicant submits that this is not a motivation available or recognized by one of skill in the art. For example, Anderson states that the restraint sheath 10 "has a smooth outer surface for protecting the vascular walls from the rough surfaces of stents and other prosthesis." Therefore, there is no motivation to providing an additional protecting outer sheath as suggested by the Office Action.

For at least this reason, Applicant suggests that Claim 1 and dependent Claims 2-9 are in condition for allowance. With respect to the Endoga, which was used to reject dependent Claim 9, Applicant notes that this reference also does not provide any motivation for positioning the main vessel graft restraint, first branch vessel graft restraint, and the second branch vessel graft restraint within the catheter body in a graft loaded condition. Instead, this reference is merely used for the entry sites for treating an abdominal aortic aneurysm.

Claims 10-15

Claims 10 and 12-15 stand rejected as unpatentable over Dorros in view of Burton. Claim 11 stands rejected over the combination of Dorros and Burton in further view of Edoga. To advance prosecution, Applicant has amended Claim 10 as outlined below. Applicant reserves the right to pursue Claims 10-16 in their original or similar form in a continuing application.

As amended, Claim 10 recites, in part, a bifurcated prosthesis having a main body section with proximal and distal ends, and first and second branch sections at the proximal end of the main body section, wherein the main body section is held in a radially compressed state by a first peelable cover, the first branch section is held in a radially compressed state within a first tubular cover and the second branch section is also held in a radially compressed within a second tubular cover, wherein the compressed bifurcated prosthesis is positioned within the outer sheath. (Underlining indicating amendments to the claim)

As has been noted above, Dorros does not disclose an outer sheath that surrounds the graft restraints. Burton also does not disclose such an arrangement. In addition, as was noted above with respect to Claims 10-15, there is no motivation in the references cited for arranging a deployment system as in amended Claim 10. Specifically, there is no motivation for surrounding the peelable covers with an outer sheath. For at least this reason, Applicant submits that Claims 10-15 are in condition for allowance.

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Claims 26-27

Claims 26-27 depend upon Claim 24, which was discussed above. These claims stand rejected obvious over Anderson and Del Toro.

As noted above, the primary reference (Anderson) does not disclose a first graft restraint that is positioned within the catheter body in a graft loaded position. In addition, as discussed above with respect to Claims 1-9, there is no motivation to add an outer tubular sheath to Anderson. For example, there is no motivation to add the outer stiffening shaft of Del Toro to Anderson. Nevertheless, the Office Action states that Del Toro is cited for teaching a second graft restraint. However, there is no such teaching in Del Toro. Instead, the outer sheath is provided for stiffening not for deploying a graft in two stages. the Accordingly, Applicant submits that Claims 26-27 are in condition for allowance.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 3-7-07

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